

STATEMENT OF COMMISSIONER DEBORAH TAYLOR TATE
*Re: Exclusive Service Contracts for Provision of Video Services in Multiple Dwelling
Units and Other Real Estate Developments*

The FCC continues to encourage competition across platforms and the stimulation of investment further down the marketplace, resulting in more competition and hopefully more choice and lower prices for consumers through the banning of exclusivity clauses in the MVPD market. I think we all recognize that exclusivity contracts in perpetuity are not in keeping with our pro-competitive policies and should be banned.

As a former state official, I am wary of acting in any area in which states have already taken the lead. We recognized state action granting video relief in our 621 Order and I do so again today. I am one of those unique federal officials who still believes that states have a critical role in our concept of “federalism.” I appreciate the comments of the National Governors Association and the National Conference of State Legislatures and other local officials who contacted us. As we recognized in our earlier Orders on exclusivity clauses, today’s action should not conflict with states that have already imposed a ban. Rather it extends this prohibition to those states that have not yet acted.

Like many of our decisions, the effects of today’s Order will not truly be tangible until markets and technology evolve. Much of the U.S. still depends on cable for their video and broadband service and that will not change overnight. This order, which ends exclusivity clauses—as we did earlier in the telecom arena-- will not create competition in every MDU overnight. It will, however, set the stage for more competition through a gradual process that hopefully will allow cable companies and Wall Street to adjust to the change in investment strategy.

This Order does not abrogate existing contracts, but rather declares exclusivity clauses to be unenforceable. Other provisions of service contracts remain intact. Also, this Order is focused solely on access to MDUs. Other competitive, freely negotiated business arrangements are untouched by this action.

I am pleased that we have also agreed, within the next two months, to consider the issues raised in the 2000 Competitive Networks Further Notice of Proposed Rulemaking. In the interest of regulatory parity, it is essential that we seek to apply our rules consistently across all platforms in a timely manner.